

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

CEASE AND DESIST ORDER NO. R2-2008-0004

**REQUIRING WEST COUNTY AGENCY,
WEST COUNTY WASTEWATER DISTRICT, THE CITY OF RICHMOND,
AND THE RICHMOND MUNICIPAL SEWER DISTRICT NO. 1
TO CEASE AND DESIST DISCHARGING WASTEWATER IN VIOLATION OF
REQUIREMENTS TO WATERS OF THE STATE**

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter “Regional Water Board”), finds that:

1. West County Agency is a Joint Powers Agency whose members are West County Wastewater District (WCWD), the City of Richmond, and Richmond Municipal Sewer District No. 1. These four entities are hereinafter referred to together as Dischargers, and individually as Discharger. The Dischargers own and operate two wastewater treatment plants: the West County Wastewater District Treatment Plant (WCWD plant) and the Richmond Municipal Sewer District Water Pollution Control Plant (Richmond plant). The WCWD plant is located at 2377 Garden Tract Road in Richmond and the Richmond plant is located at 601 Canal Boulevard in Richmond. The WCWD plant serves a population of about 90,000 covering parts of Richmond, the City of San Pablo, the communities of Tara Hills, Rollingwood, Bayview, and El Sobrante; the Crestview portion of Pinole and some unincorporated portions of Contra Costa County. It has a design flow rate of 12.5 million gallons per day (MGD) and the average daily flow rate in 2006 was about 9.8 MGD. The Richmond plant serves a population of about 68,000 covering most of the incorporated area of Richmond. It had a design flow rate of 16 MGD and the average daily flow rate in 2006 was about 8.5 MGD. Effluent from the WCWD plant and the Richmond plant are combined prior to discharge from the West County Agency outfall into San Francisco Bay.
2. The wastewater discharge has been regulated by waste discharge requirements in Order No. 01-144 (NPDES Permit No. CA0038539).
3. Concurrent with the adoption of this Cease and Desist Order, the Regional Water Board adopted Order No. R2-2008-0004 (hereinafter “Permit”), reissuing waste discharge requirements for the Dischargers. The Permit contains prohibitions, limitations, and provisions regulating the discharge. The limitations include those listed in Table 1 below, among others.

Table 1: Permit Effluent Limits

| Parameter | Final Effluent Limits in Permit | | Monitoring Station |
|------------|---------------------------------------|-------------------------------------|--------------------|
| | Average Monthly Effluent Limit (µg/L) | Maximum Daily Effluent Limit (µg/L) | |
| Dioxin-TEQ | 1.4E-08 | 2.8E-08 | E-001-DC |
| Selenium | 3.8 | 8.9 | E-001-DC |
| Cyanide | 7.8 | 15 | E-001-DC |
| 4,4-DDD | 0.00084 | 0.0017 | E-001-DC |
| Heptachlor | 0.0020 | 0.0041 | E-001-DC |

4. The Dischargers submitted an infeasibility study demonstrating that they cannot comply with the effluent limits listed in Table 1. As stated in the Permit findings, the Regional Water Board concurs with the Dischargers because the effluent limits are more stringent than the maximum effluent concentrations measured in the effluent (or, in the case of cyanide and selenium, the 95th and 99th percentile of the data exceed the average monthly and daily maximum limits).
5. Although the Permit contains final effluent limits for 4,4-DDD and heptachlor, the Permit also provides a compliance schedule to meet these final effluent limits. The compliance schedule lasts until May 18, 2010, which is the last day of *Policy for Implementation of Toxics Standards of Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy) authorizes compliance schedules for California Toxic Rule pollutants. As stated in the Permit, the actions this compliance schedule requires are, by themselves, unlikely to result in compliance by May 18, 2010, because this length of time is insufficient to complete all necessary actions. Therefore, when the compliance schedule for 4,4-DDD and heptachlor ends, the Dischargers threaten to violate the effluent limitations for these pollutants.
6. Although the Permit contains final effluent limits for dioxin-TEQ, the Permit also provides a compliance schedule to meet these final effluent limits. The compliance schedule lasts until November 30, 2011. The Dischargers have notified the Regional Water Board that they will not be able to meet final effluents limits by this date. Therefore, the Dischargers threaten to violate the effluent limitations for this pollutant when the compliance schedule for dioxin-TEQ ends.
7. Water Code § 13301 authorizes the Regional Water Board to issue a Cease and Desist Order when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements.
8. Because the Dischargers will violate or threaten to violate required effluent limits, this Order is necessary to ensure that the Dischargers achieve compliance. This Order establishes time schedules for the Dischargers to complete necessary investigative, preventive, and remedial actions to address their imminent and threatened violations. The Permit requires certain actions as conditions of their selenium, cyanide, 4,4-DDD, heptachlor, and dioxin-TEQ compliance schedules. This Order continues those

efforts once the compliance schedule ends so the Dischargers will eventually comply with their final effluent limitations.

9. The time schedules in this Order are parameter-specific and intended to be as short as possible. They account for the considerable uncertainty in determining effective measures (e.g., pollution prevention and treatment plant upgrades) necessary to achieve compliance. This Order allows some time to first explore source control measures before requiring further actions, such as treatment plant upgrades, which are likely to be much more costly. The time schedules are based on reasonably expected times needed to implement source identification and upstream source control, evaluate success, identify on-site treatment alternatives if necessary, test and select from among alternatives, and construct plant upgrades. The Regional Water Board may wish to revisit these assumptions as more information becomes available.
10. As part of the time schedules to achieve compliance, this Order requires the Dischargers to comply with interim effluent limits, where feasible. These limits are intended to ensure that the Dischargers maintain at least their existing performance while completing all tasks required during the time schedules. The interim limits are based on past performance or limits in previous orders, whichever are more stringent. If based on past performance, the interim limits represent the 99.87th percentile of actual measured discharge concentrations (three standard deviations from the mean). If insufficient monitoring data exist to derive a reliable performance-based limit, and if no previous order contained a limit, then this Order does not establish an interim limit. For cyanide and selenium, this Order retains the interim effluent limitations from Order No. 01-144. For 4,4-DDD and heptachlor, there was insufficient monitoring data to derive a reliable performance-based limit so the interim limits were based on a minimum level of 0.05 µg/L for 4,4-DDD and 0.01 µg/L for heptachlor.
11. The Dischargers are required to report the influent flow at both the WCWD plant and the Richmond plant as part of its self-monitoring program. However, the Richmond plant does not have an influent flow meter, so the Richmond Municipal Sewer District has been in violation of Order No. 01-144, Provision F.20.
12. This Order is an enforcement action and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) in accordance with 14 CCR § 15321.
13. The Regional Water Board notified the Dischargers and interested persons of its intent to consider adoption of this Cease and Desist Order, and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code § 13301, that the Dischargers shall cease and desist from discharging and threatening to discharge wastes in violation of their Permit by complying with the following provisions:

1. Prescribed Actions. The Dischargers shall comply with the required actions in Table 2 and Table 3 in accordance with the time schedules provided therein to comply with all effluent limits contained in the Permit. All deliverables listed in Table 2 and Table 3 shall be acceptable to the Executive Officer, who will review them for adequacy and compliance with the Table 2 requirements. The Dischargers shall further implement all actions set forth in each deliverable, unless the Executive Officer finds the deliverable to be unacceptable.
2. Exceptions. The following exceptions apply to the parameter-specific time schedules and prescribed actions in Table 2.
 - a. *Cyanide*. The cyanide-related time schedules and prescribed actions shall cease to be in effect upon the effective date of site-specific objectives¹ for cyanide in San Francisco Bay resulting in an adjusted saltwater chronic objective of 2.9 µg/L and acute objective of 9.4 µg/L, and thus putting into effect the alternate effluent limits the Permit specifies. If different site-specific objectives are adopted, the Regional Water Board will establish revised effluent limits based on them after the effective date of those different site-specific objectives, and the cyanide-related time schedules and prescribed actions in this Order shall remain in effect until the revised cyanide limits are adopted. At that time, the Regional Water Board will determine if the cyanide-related time schedules and prescribed actions in Table 2 are still necessary or if they should be rescinded. Until such time, the Discharger shall comply with them.
 - b. *4,4-DDD and heptachlor*. The prescribed actions in Table 2, actions "b," "c," "d," and "e" shall not apply to 4,4-DDD or heptachlor because the Permit already requires these actions. Actions "a," "f," "g," and "h" shall apply to 4,4-DDD and heptachlor beginning May 18, 2010.
 - c. *Dioxin-TEQ*. The prescribed actions in Table 2, actions "b," "c," "d," and "e" shall not apply to dioxin-TEQ because the Permit already requires these actions. Actions "a," "f," "g," and "h" shall apply to dioxin-TEQ beginning November 30, 2011.
3. Reporting Delays. If the Dischargers are delayed, interrupted, or prevented from meeting one or more of the time schedules in Table 2 due to circumstances beyond its reasonable control, the Dischargers shall promptly notify the Executive Officer, provide the reasons and justification for the delay, and propose time schedules for resolving the delay.
4. Consequences of Non-Compliance. If the Dischargers fail to comply with the provisions of this Order, the Executive Officer is authorized to take further enforcement action or to request the Attorney General to take appropriate actions

¹ In December 2006, the Regional Water Board adopted site specific objectives for cyanide in San Francisco Bay.

against one or all four of the Dischargers in accordance with Water Code §§ 13331, 13350, 13385, and 13386. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of an Administrative Civil Liability Complaint for Regional Water Board consideration.

5. Effective Date. This Order shall be effective on the effective date of the Permit.
6. Influent Flow Meter. No later than 180 days of the effective date of this Order, the City of Richmond shall complete installation, testing, and calibration of an influent flow meter at the Richmond plant, and commence influent flow monitoring in accordance with Permit requirements.

Table 2: Time Schedule and Prescribed Actions for Effluent Limitations

| Action | Deadline | | | | |
|--|---------------------------------------|----------|------------------------|------------|----------------|
| | Cyanide | Selenium | 4,4-DDD | Heptachlor | Dioxin-TEQ |
| a. Comply with the following interim effluent limits at Monitoring Station E-001-DC: <i>Cyanide</i> : Max. daily effluent limit = 25 µg/L <i>Selenium</i> : Max. daily effluent limit = 17 µg/L <i>4,4-DDD</i> : Minimum level = 0.05 µg/L <i>heptachlor</i> : Minimum level = 0.01 µg/L | Upon the effective date of this Order | | Beginning May 18, 2010 | | Not Applicable |
| b. Investigate sample collection, sample handling, and analytical laboratory quality assurance and quality control practices to ensure that analytical results for cyanide and selenium are accurately determined and reported. Submit a report by the deadline describing the results of the investigation and any changes in quality assurance and quality control practices implemented. | June 1, 2008 | | Not Applicable | | |
| c. If discharge data from the previous two years continue to show the discharge is out of compliance (as defined in Section 2.4.5 of the State Implementation Policy) with the permit effluent limits, submit a plan for identifying all sources of cyanide and selenium. Examples of potential cyanide sources include metal plating and finishing, electroplating, photographic finishing, and laboratories. The plan shall, at a minimum, include sampling influent waste streams to identify and quantify pollutant sources. | November 1, 2008 | | Not Applicable | | |

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| If either the WCWD plant or the Richmond plant can demonstrate that their individual wastewater streams do not violate or threaten to violate final effluent limit specified in effluent limitation and discharge specifications of the Permit, then that facility shall just monitor and submit annual reports. | | |
| d. Implement the plan developed in action “c” within 30 days of the deadline for action “c,” and submit by the deadline for this action a report that contains an inventory of the pollutant sources. | March 1, 2009 | Not Applicable |
| e. Submit a report documenting development and initial implementation of a program to reduce and prevent the pollutants of concern in the discharge. The program shall consist, at a minimum, of the following elements: i. Maintain a list of sources of pollutants of concern. ii. Investigate each source to assess the need to include it in the program. iii. Identify and implement targeted actions to reduce or eliminate the source. iv. Develop and distribute, as appropriate, educational materials regarding the need to prevent sources to the sewer system. | May 1, 2009 | Not Applicable |
| f. Continue to implement the program described in action “d” and submit annual status reports that evaluate its effectiveness and summarize planned changes. Report whether the program has successfully brought the discharge into compliance with the effluent limits in the | Annually each February 28 in Best Management Practices and Pollutant Minimization Report required by Permit Provision VI.C.3 | |

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| Permit. If not, identify and implement additional measures to further reduce discharges. | |
| g. If the discharge data show that the discharge is not out of compliance (as defined in Section 2.4.5 of the State Implementation Policy), then the remainder of the provisions in this Order are not applicable. | Review discharge data annually each February 28 th in the Best Management Practices and Pollutant Minimization Reports |
| <p>h. If by February 28, 2012, the above actions have not successfully brought the discharge into compliance with all Permit effluent limits, submit a report, by the deadline for this action, identifying more aggressive actions to ensure compliance. These actions shall include, but not be limited to, reviewing options for pretreatment and upgrades to the treatment plant. The report shall identify an implementation schedule for investigating these options, selecting a preferred option, and implementing the chosen option. At a minimum, the report shall plan for the following activities:</p> <ul style="list-style-type: none"> i. Bench scale testing or pilot scale testing or both ii. Development of preliminary design specifications iii. Development of final design specifications iv. Procurement of funding v. Acquisition of necessary permits and approvals vi. Construction | April 1, 2012 |

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| i. Implement the plan required in action “h” within 45 days of the deadline for action “h,” and submit annual status reports. | Annually each February 1 in Annual Self-Monitoring Report required by Permit Attachment E, Monitoring and Reporting Program |
| j. Submit documentation confirming complete plan implementation and comply with effluent limits in the Permit. | April 1, 2016 |

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on January 30, 2008.

BRUCE H. WOLFE
Executive Officer